

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Federal-State Joint Board on	)	CC Docket No. 96-45
Universal Service	)	
	)	
1998 Biennial Regulatory Review –	)	CC Docket No. 98-171
Streamlined Contributor Reporting	)	
Requirements Associated with Administration	)	
of Telecommunications Relay Service, North	)	
American Numbering Plan, Local Number	)	
Portability, and Universal Service Support	)	
Mechanisms	)	
	)	
Telecommunications Services for Individuals	)	CC Docket No. 90-571
with Hearing and Speech Disabilities, and the	)	
Americans with Disabilities Act of 1990	)	
	)	
Administration of the North American	)	CC Docket No. 92-237
Numbering Plan and North American	)	NSD File No. L-00-72
Numbering Plan Cost Recovery Contribution	)	
Factor and Fund Size	)	
	)	
Number Resource Optimization	)	CC Docket No. 99-200
	)	
Telephone Number Portability	)	CC Docket No. 95-116
	)	
Truth-in-Billing and Billing Format	)	CC Docket No. 98-170

**PETITION FOR RECONSIDERATION**

The National Exchange Carrier Association, Inc. (NECA) respectfully requests reconsideration of the Commission's December 13, 2002 *Report and Order* in the above-captioned proceeding.<sup>1</sup> NECA's request for reconsideration is limited to the

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<sup>1</sup> Federal-State Joint Board on Universal Service, CC Docket No. 96-45, 1998 Biennial Regulatory Review - Streamlined Contributor Reporting Requirements Associated with Administration of Telecommunications Relay Service, North American Numbering Plan,

Commission's annual true-up procedures for reconciling quarterly revenue projections with actual revenue reported on FCC Form 499-A.

The *Report and Order* initiated several changes to the universal service contribution mechanism, including modifying the existing revenue-based methodology to require that universal service contributions be based on contributor-provided projections of collected end-user interstate and international telecommunications revenues, instead of historical gross-billed revenues.<sup>2</sup> The Commission explained that basing contributions on projections instead of historical revenues would eliminate the interval between the accrual of revenues and the assessment of universal service contributions based on those revenues, thereby promoting competitive neutrality and eliminating aspects of the current mechanism that disadvantage carriers with declining revenues.<sup>3</sup>

The *Report and Order* specifies an annual true-up process for carriers to conform projected revenues with actuals. The true-up procedure requires the Universal Service Administrative Company (USAC) to compare combined quarterly revenue projections for the prior year with actual revenue data provided by contributors on FCC Form 499-A. USAC will then refund overpayments based on an average of the two lowest contribution factors for the year, or collect additional funds for underpayments based on an average of

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Local Number Portability, and Universal Service Support Mechanisms, CC Docket No. 98-171, Telecommunications Services for Individuals with Hearing and Speech Disabilities, and the Americans with Disabilities Act of 1990, CC Docket No. 90-571, Administration of the North American Numbering Plan and North American Numbering Plan Cost Recovery Contribution Factor and Fund Size, CC Docket No. 92-237, NSD File No. L-00-72, Number Resource Optimization, CC Docket No. 99-200, Telephone Number Portability, CC Docket No. 95-116, *Report and Order*, 67 Fed. Reg. 79525 (2002) (*December 2002 Order*).

<sup>2</sup> *Id.* at ¶ 1.

<sup>3</sup> *Id.* at ¶¶ 29-30.

the two highest contribution factors for the year.<sup>4</sup> The Commission explains that this approach is consistent with the existing mechanism, which is used to true-up quarterly historical gross billed end user revenues with annual amounts reported on FCC Form 499-A.<sup>5</sup>

However, this true up mechanism is not exact. Because refunds are determined based on the average of the two lowest contributions factors, and not the actual contribution factor of the quarter in which the contributor overpaid, it is possible that the amount refunded is less than the excess amount paid. Similarly, since additional payments are calculated based on the average of the two highest contribution factors for the year, and not the actual contribution factor of the quarter in which the contributor underpaid, it is possible that contributors could be assessed more than they actually owe.

The Commission's true-up mechanism may have been reasonable under the prior methodology because contributors could reasonably be expected to report actual accrued revenues accurately.<sup>6</sup> However, it is much more difficult for contributors to forecast revenues accurately. Indeed, it is considered a truism in the industry (and elsewhere) that "all forecasts are wrong." Therefore, the Commission's mechanism appears to penalize contributors by imposing either a refund deficit or contribution overpayment unless contributors are able to forecast collected end user interstate and international telecommunications revenues with 100% accuracy. This is a level of precision

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<sup>4</sup> *Id.* at ¶ 36.

<sup>5</sup> *Id.*

<sup>6</sup> The true-up mechanism was initially intended to encourage carriers to report quarterly revenue accurately. *See* Federal-State Joint Board on Universal Service, CC Docket No. 96-45, Petition for Reconsideration filed by AT&T, *Report and Order and Order on Reconsideration*, 16 FCC Rcd 5748 at ¶ 12 (2001).

contributors are unlikely to achieve, especially in today's volatile telecommunications market.

NECA proposes an alternate quarterly true-up mechanism in which a contributor's quarterly revenue projections are compared to the corresponding quarter's actual revenue, with any difference assessed for refund or additional contribution based on the contribution factor in effect for the given quarter. The data needed to perform quarterly true-ups is readily available because the Commission still requires contributors to continue to file historical actual revenue results in addition to projections on FCC Form 499Q. Thus, a quarterly true-up process would not impose any additional reporting burdens on contributors. NECA also suggests that the Commission retain its current annual process to true-up quarterly reported actual revenues with actuals reported on FCC Form 499-A to encourage contributors to continue to report actual revenue accurately.

Quarterly true-ups at the contribution factor in effect for the designated quarter would be more equitable and would not penalize contributors for inevitable forecasting inaccuracies.<sup>7</sup> Quarterly true-ups would also have the advantage of providing a more stable cash flow for universal service funding programs than a single annual true-up, thus addressing industry concerns regarding the potential volatility of basing contributions on projected revenues.

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<sup>7</sup> The Commission may wish to institute a penalty for contributors that consistently underforecast revenue projections by a significant amount.

NECA therefore recommends that the Commission modify its true-up procedures to provide for a quarterly true-up process instead that will be more equitable to contributors and provide a more stable cash flow to universal service programs.

Respectfully submitted,

NATIONAL EXCHANGE CARRIER  
ASSOCIATION, INC.

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CERTIFICATE OF SERVICE

I hereby certify that a copy of NECA's Petition for Reconsideration was served on this 29<sup>th</sup> day of January 2003 by electronic delivery or by first-class mail to the persons listed below.

By : /s/ Shawn O'Brien  
Shawn O'Brien

The following parties were served:

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